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May 10, 2016

VIA ELECTRONIC FILING
The Honorable James K. Bredar
United States District Court of Maryland
101 W. Lombard Street
Baltimore, Maryland 21201

Re: Harris vs. HABC, *et al*
Civil Case No.: 14-3395

Your Honor:

I am in receipt of the Court's May 9, 2016, Order scheduling a Motions hearing for May 12, 2016, at 5:00 p.m. I am presently scheduled to travel to New York for a prescheduled vacation on May 11, 2016 and will not be returning until Sunday, May 15, 2016. I am therefore unavailable to attend the May 12, 2016, and would request that Your Honor reschedule the hearing. The undersigned counsel is available all day on Monday, May 16, 2016, Tuesday, May 17, 2016, after 12:30 p.m. and all day on Thursday, May 19, 2016.

I would also bring to the Court's attention, Plaintiff's Amended Response to Defendant's Motion for Sanctions (docket entry "41"), providing notice that Plaintiff has responded to Defendant's discovery.

By way of background, the Plaintiff's employment often took him out of town for work, making it difficult to reach Plaintiff to complete his discovery responses, despite undersigned counsel's good faith efforts. Plaintiff also had several changes to his personal emails thus did not receive some of the undersigned counsel's correspondence.

To date, the parties have not conducted depositions. Defense Counsel indicated that she was not available for at least ninety (90) days to conduct depositions based on her present trial schedule. Plaintiff avers that a ninety (90) day extension of the discovery deadline would serve the ends of justice in this case, providing each party with sufficient time to conduct deposition and finalize the pending discovery.

Defendant's Counsel also alleges that the Defendant has been prejudiced because they were not able to select an expert, because of alleged delays in Plaintiff responding to discovery. Plaintiff states and therefore avers that Defendant was certainly placed on notice of Plaintiff's claims in his First Amended Complaint and was well aware of the issues in this case prior to the deadline to designate experts. However, in the interest of fairness, Plaintiff would also request a thirty (30) day extension of time for each party to designate experts. No party would suffer prejudice based on the requested extension of time.

Rule 16(b)(4) of the Federal Rules of Civil Procedure governs the modification of a scheduling order. This rule provides courts with considerable discretion in managing and modifying the timing of pretrial discovery and other scheduling matters. See *Dent v. Montgomery*, 745 F. Supp. 2d 648, 663 (D. Md. 2010). The "only formal limitation on this discretion with respect to consideration of motions to [modify] scheduling orders is that the moving party demonstrate good cause." *Dent*, 745 F. Supp. at 663 (citing Fed. R. Civ. P.16(b)(4)). The moving party shows good cause when it "demonstrates that the scheduling order deadlines cannot be met despite its diligent efforts." Id. (citing *Potomac Elec. Power Co. v. Elec. Motor Supply, Inc*., 190 F.R.D. 372, 375 (D. Md. 1999).

This is not a case in which the Plaintiff has violated a court order compelling discovery. Had Plaintiff violated a court order, the Court might find bad faith on Plaintiff's part. See *Textron*, 192 F.R.D. at 506 (citing *Mut. Fed. Savings & Loan Ass'n v. Richards & Assocs., Inc.,* 872 F.2d 88, 92 (4th Cir. 1989); *Melendez v. Ill. Bell* Tel. Co., 79 F.3d 661, 671-72 (7th Cir. 1996)). Moreover, Defendant's Motion is a discovery motion. Pursuant to Local Rule 104.7, Defendant's counsel was obligated to attempt to meet and confer with Plaintiff counsel before filing the motion. The Motion does not include a Local Rule 104.7 certificate, and cannot, as no such attempt was made.

Furthermore, Plaintiff certifies that the request for an extension is not being made for delay or harassment. Plaintiff will be substantially prejudiced if the deadlines in the Scheduling Order are not extended for the above stated reasons. On the other hand, Defendant will not be prejudiced by the proposed extensions to the Scheduling Order. Additionally, the proposed extension will not disrupt the trial date for this matter since no trial date has been set.

For the reasons above, Plaintiff respectfully asks the Court to grant its Motion to Extend Deadlines for Discovery and Experts. The Defendant's Counsel does not consent to the relief sought in this correspondence.

Should Your Honor have any questions and/or concerns, please do not hesitate to contact me. Thank you in advance for your time and consideration. I am:

Very truly yours,

THE LAW OFFICES OF KIM PARKER, P.A.

/s/
Kim Parker, Esq

cc: Carrie Blackburn Riley, Esquire
Via Electronic Notice